

Ms. Borane Simmons
July 28, 2003
Page 2

upon Z-Tel. The cumulative effect of this unlawful overcharge has created an extreme and unwarranted economic hardship on Z-Tel, which merits expedited review.

Z-Tel demands that SBC immediately cease its unlawful conduct by complying with the commission's March 28, 2002 Order.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Robert K. Johnson".

Robert K. Johnson
Counsel to Z-Tel Communications

cc: Rich Higgins, WRC
Ron Walters, Z-Tel

TAB D

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

In the Matter of the Petition of Indiana Bell)	
Telephone Company, Incorporated d/b/a)	
Ameritech Indiana, Pursuant to I C 8-1-2-61,)	
for a Three-Phase Process for Commission)	Cause No 41657
Review of Various Submissions of Ameritech)	
Indiana to Show Compliance with Section 271(c))	
of the Telecommunications Act of 1996)	

**SBC INDIANA'S FILING OF PRICING INFORMATION AND
MOTION FOR CLARIFICATION OF JULY 11, 2003 ENTRY**

Comes now Indiana Bell Telephone Company, Incorporated ("SBC Indiana"), by counsel, and pursuant to the Commission's July 11, 2003 docket entry, files the requested pricing list, requests clarification regarding the docket entry, and provides additional information regarding the pricing upon which SBC Indiana is relying in its 271 application, as follows

The Commission's July 11, 2003 docket entry directs SBC Indiana to file a "complete price list containing all rates and charges on which SBC Indiana is relying for its Section 271 application" as to all UNEs and UNE combinations, all interconnection, collocation, and resale arrangements, and all reciprocal compensation, transport and termination arrangements. The July 11, 2003 docket entry states that the price list is requested to expedite the Commission's final review of SBC Indiana's draft pre-application and to assist other parties in their review of SBC Indiana's §271 application before the Federal Communications Commission (FCC).

On July 17, 2003, SBC Indiana, along with SBC Illinois, SBC Wisconsin and SBC Ohio, filed a four-state application with the FCC for Provision of In-Region, InterLATA Services in Illinois, Indiana, Ohio, and Wisconsin.¹ This recent filing with the FCC includes an Affidavit of Jolynn Barry Butler that addresses, among other things, SBC Indiana's compliance with the FCC's competitive checklist pricing requirements.² The Butler Affidavit demonstrates that, subject to certain pending appeals, the prices for UNEs, interconnection, and transport and termination of traffic were set at the recurring and nonrecurring direct Total Element Long Run Incremental Costs ("TELRIC"), plus a markup for shared and common costs. The Butler Affidavit also discusses the Commission's wholesale price proceedings and how the rates for most UNEs and interconnection were exhaustively reviewed and set in IURC Cause 40611 and 40611-S1, Phase I and Phase II, and that the avoided cost discount for resold services was established by the IURC in Cause No. 41055. As a result, the prices established by this Commission fully comply with the requirements of §§ 251(c)(2), 251(c)(3), 251(c)(4), 252(d)(1), 252(d)(2) and 252(d)(3) of the Act.³

The Butler Affidavit also describes how the rates and charges from the above referenced dockets (Causes No. 40611 and 40611-S1) are generally reflected in SBC

See Public Notice, dated July 17, 2003 (DA 03-2344) requesting comments on the *Application of SBC, Pursuant to Section 271 of the Telecommunications Act of 1996 for Authorization To Provide In-Region, InterLATA Services in Illinois, Indiana, Ohio, and Wisconsin*, WC Docket No. 03-167 (filed July 17, 2003). A complete copy of this application has been provided to this Commission.

² Id. Affidavit of Jolynn Barry Butler, at ¶¶ 61-108 (App. A, Tab 8).

³ As the Commission is well aware, SBC Indiana has challenged certain Orders as not being compliant with the FCC's TELRIC pricing methodology. These pending appeals include Cause No. 40611 (S.D. Ind. Case IP01-0219-C-Y/S) challenging the IURC's authority to require the filing of UNE tariffs, to require combination of UNEs, to require OS/DA to be offered as a UNE at TELRIC rates, Cause No. 40611-S1 (S.D. Ind. Case IP02-0656-C-T/K) challenging the IURC's application of TELRIC methodology in setting NRCs for UNE combinations and ULS-ST rates, and in the recovery of billing inquiring cost, measurement costs, and DUF costs, and in setting a \$0 price for HFPL and manual loop qualification, and IURC Cause No. 40572-INT-031 (U.S. Ct. Of Appeals 7th Cir. 03-1122, 03-1123,

Indiana's UNE and interconnection tariffs as required by this Commission's orders and are available for all new interconnection agreements. Further, these rates are made available for existing interconnection agreements if so provided in the language of those agreements. For example, the approved interconnection agreement between AT&T and Indiana Bell provides, in §29.2, that AT&T can order products and services available under any effective Indiana Bell tariff or any tariff that Indiana Bell may file in the future assuming AT&T satisfies all conditions that might be contained in such tariff. In addition, Attachment B to the Butler Affidavit is the pricing schedule contained in the interconnection agreement between Indiana Bell and Easton, which includes UNE pricing established by IURC proceedings through the date of that agreement.

As reflected in the Butler Affidavit, SBC Indiana did not predicate its §271 application on a single price list containing current rates and charges and did not develop and provide to the FCC with its application a single price list such as the price list requested by the July 11, 2003 docket entry. Thus, the price list attached hereto was specifically developed to respond to, and for the purposes described in, the Commission's July 11 docket entry from a number of sources as noted above.

Further, SBC respectfully wishes to respond to the suggestion contained in the July 11, 2003 entry that SBC had failed to follow the commission's previous instructions of May 9, 2003. The May 9, 2003 docket entry required each party filing a proposed order to provide a redlined version of the price list attached to the docket entry and to provide references to the required statutory pricing/costing standard, the required FCC pricing/costing standard, an indication of whether the price for the element/service is

03-1124) on the issues of the obligation to offer new UNE combinations, and OS/DA and dark fiber as a UNE

based upon the applicable legal standards, and the proposed alternative price, if a party disputes that the actual or proposed SBC price meets the applicable legal standard. SBC intended to and believes that it did fully comply with the May 9, 2003 docket entry when it filed its proposed order in this cause.

No party had comments or corrections to the price list, except SBC as set out in SBC Indiana's June 6, 2003, proposed order, ¶854.⁴ SBC Indiana did not red-line the price list attached to the docket entry, because the rates contained therein were correct, although not complete. SBC Indiana noted in its proposed order that the price list did not reflect the rates established by the Commission's February 17, 2003 Order in Cause No 40611-S1 Phase II, and provided an attachment with those prices. SBC Indiana's proposed order also provided, for each checklist item, the applicable statutory and FCC pricing and costing standards and applicable Commission proceedings in which the prices were established. A summary of these discussions of costing standards as to each checklist item is set forth in ¶855 of SBC Indiana's proposed order. Further, SBC Indiana noted in its proposed order that this "Commission has demonstrated a consistent commitment to investigating SBC Indiana's wholesale rates fully, and has required the Company to establish rates that do not exceed what strictly applied TELRIC principles would dictate. Actually, the Company believes that the rates imposed by the

⁴ SBC Indiana's Proposed Order, ¶854 stated

The 41657 Price List-1, -2 and -3 to the IURC docket entry reflects then current pricing for SBC Indiana products and services. However, the interconnection agreement to which those lists were attached was negotiated and agreed to prior to the Commission's 2/17/03 Order in Cause No 40611 S1 Phase 2. Pricing is subject to revision based on changes in law and new orders, as well as the negotiation of the parties. For example, parties may negotiate a lower price for certain services or a different type of service for a higher price and this would be reflected in their interconnection agreement. Any pricing appendix will represent a snapshot of the then current rates and the negotiations of the parties. Attached is a document that reflects the rates changed by the 2/17/03 Order that would be a basis for a pricing appendix that would be negotiated now.

Commission are lower than those that a proper application of TELRIC principles would generate.” SBC Indiana Proposed Order, filed June 6, 2003, ¶271. SBC Indiana is unable to discern what information has not been provided to the Commission and respectfully requests clarification and direction if, between the Proposed Order and the price list attached hereto, more information is needed

Attached hereto is a price list that represents SBC Indiana’s best efforts to provide the Commission the information requested in a matrix format as to those rates upon which SBC Indiana is relying in its 271 application, including references to a supporting interconnection agreement, the applicable tariff or catalog, and appropriate Commission proceeding in which the price was set. Based on the foregoing, this filing, in combination with SBC Indiana’s proposed order filed in this Cause on June 6, 2003, provides the information requested regarding pricing. To the extent the Commission requires more, as noted above, SBC Indiana respectfully requests clarification. Further, SBC Indiana stands ready to provide any other assistance in order to facilitate the Commission’s review of Indiana Bell’s Section 271 application.

Dated July 18, 2003

Respectfully submitted,

Bonnie K. Simmons (#12067-49)
SBC INDIANA
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SBC Management Services Inc
225 West Randolph, 25th Floor
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Telephone (312) 727-2707
Counsel for Indiana Bell Telephone Company,
Incorporated

CERTIFICATE OF SERVICE

I hereby certify that on July __, 2003, I caused a true and correct copy of the foregoing
to be served to Ameritech271@urc.state.in.us

TAB E

**IURC MARCH 28, 2002 ORDER AMENDMENT
TO THE INTERCONNECTION AGREEMENT UNDER
SECTIONS 251 AND 252 OF THE TELECOMMUNICATIONS ACT OF 1996**

This IURC March 28, 2002 Order Amendment to the Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (the "**Amendment**") by and between Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana ("**SBC Indiana**") and Z-Tel Communications, Inc ("**CLEC**") is dated _____, 2003

WHEREAS, SBC Indiana and CLEC are parties to a certain Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 submitted for approval in the Indiana Utility Regulatory Commission's ("IURC") Cause No. 41268-INT-130ND, as may have been amended prior to the date hereof (the "**Agreement**"), which incorporated certain terms and conditions of the Interconnection Agreement between AT&T and Indiana Bell Telephone Company, Inc. d/b/a Ameritech Indiana which was approved by the IURC on September 19, 2001 in Cause No. 40571-INT-03,

WHEREAS, the IURC issued an order ("Order") in Cause No. 40611-S1, Phase 1, on March 28, 2002, setting forth in certain Indiana-specific prices and other requirements pertaining to particular combinations of unbundled network elements ("UNEs") that are included in the Agreement ("Non-Voluntary Terms"),

WHEREAS, provisions of the Agreement require the incorporation into the Agreement of new prices such as those established by the Order,

WHEREAS, based on the foregoing and except as may be otherwise expressly noted, the Parties are entering into this Amendment to incorporate into the Agreement the Non-Voluntary Terms only as and to the extent imposed by the Order, subject to the reservation of rights and other provisions hereof

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree as follows

1. INTRODUCTION

- 1.1 Unless otherwise defined herein, capitalized terms shall have the meanings assigned to such terms in the Agreement
- 1.2 Subject to Section 6.5 of this Amendment, to the extent there is a conflict or inconsistency between the provisions of this Amendment and the provisions of the Agreement (including all incorporated or accompanying Appendices, Addenda and Exhibits to the Agreement), the provisions of this Amendment shall control and apply but only to the extent of such conflict or inconsistency
- 1.3 The term "UNE-P" refers to "unbundled network element platform" ("UNE Platform") as described in the Order

2. AMENDMENT TO THE AGREEMENT

- 2.1 On and after the Amendment Effective Date (as defined in Section 3 of this Amendment), the Agreement is hereby amended by referencing and incorporating the following:
- 2.1.1 Hereby deleted by this Amendment are those provisions in the Agreement, if any, pertaining to an "interim" form of unbundled shared transport that arose from *In the Matter of the SBC/Ameritech Merger*, CC Docket No. 98-141, including Paragraph 55 of Appendix C of the Memorandum Opinion and Order, FCC 99-279 (rel. October 8, 1999), issued in that proceeding (such form is typically referred to as "Interim Shared Transport", "IST", and when provided with unbundled local switching, "ULS-IST")
- 2.1.2 Solely to effectuate certain pricing changes contemplated by the Agreement (on which Agreement provisions this Amendment is conditioned) and to do so in an amendment to be approved before the IURC, and for no other reason, the new rates and rate structure in Attachment A (which is incorporated herein) shall apply in accordance herewith to the UNE combinations known as UNE-P and "ULS-ST" (the combination of unbundled local switching with unbundled shared transport), respectively. The ULS-ST rates in Attachment A apply whether ULS-ST is included as part of UNE-P or ordered without an unbundled loop. For purposes of Attachment A, "POTS" UNE-P/UNE Platform consists of an unbundled 2-wire analog loop, and an unbundled 2-wire basic line port with unbundled shared transport.
- 2.1.3 Subject to Section 2.3, the new rates and rate structures shall begin to apply in accordance with the Agreement. If the Agreement does not specify a beginning, then the new rates and rate structure shall begin to apply as of the Amendment Effective Date.
- 2.1.4 In Attachment A, the "Billing Inquiry Charge - Manual" is the charge for processing an inquiry by a telecommunications carrier concerning the ULS-ST bills it receives from SBC Indiana when manual intervention by an SBC Indiana representative is required for such processing. This charge applies only when, upon investigation, the carrier is found to be at fault. The charge is not applicable when, upon investigation, SBC Indiana is found to be at fault.
- 2.1.5 Sections 2.1.2 through 2.1.4, inclusive, (including Attachment A) in this Amendment are the Non-Voluntary Terms.
- 2.1.6 The non-recurring charges associated with UNE-P and ULS-ST shall continue to apply in addition to the applicable charges in Attachment A.
- 2.2 This Amendment is provided as a means by which the CLEC, which has an interconnection agreement with SBC Indiana under Sections 251 and 252 of the Telecommunications Act of 1996, can obtain the rights and obligations under the Order's Non-Voluntary Terms. Nothing in this Amendment expands, contracts, or otherwise affects either Party's rights or obligations under the Agreement beyond the express provisions of this Amendment.
- 2.3 Notwithstanding anything to the contrary, including anything in the Agreement or this Amendment (including Section 2.1.3), in no event shall this Amendment result in the retroactive application of any rate or rate structure back to any date earlier than the most recent of the following: (i) the actual date that the Agreement became effective between CLEC and SBC Indiana following IURC approval or, if absent such IURC approval, the date

such Agreement is deemed approved by operation of law, or (ii) the date furthest back that CLEC is still permitted under the Agreement to dispute the charges for the items whose rates are affected by the Order (to be determined based upon when and what CLEC did in fact dispute such charges as required by the Agreement), or (iii) March 28, 2002. By way of example only and without limiting the foregoing, if CLEC adopted the Agreement (including, as applicable, this Amendment and any other amendment) ("Adopting CLEC") pursuant to 47 U.S.C. § 252(i) after the tariff effective date of a particular rate change, that rate change could only apply prospectively beginning from the date that the Agreement (including, as applicable, this Amendment and any other amendment) became effective between the Adopting CLEC and SBC Indiana following the IURC's order approving the Adopting CLEC's Section 252(i) adoption or, if absent such IURC approval, the date such Agreement is deemed approved by operation of law ("Section 252(i) Effective Date"), and that rate change could not in any manner apply retroactively prior to the Section 252(i) Effective Date. By way of further example only and without limiting the foregoing, if the Agreement limits disputes for past billing to the most recent 12 months, then the rate change could not apply retroactively any further back than 12 months from the date on which CLEC disputed the charges affected by this Amendment in the manner required by the Agreement.

3. AMENDMENT EFFECTIVE DATE

3.1 The effective date of this Amendment shall be ten (10) calendar days after the IURC approves this Amendment under Section 252(e) of the Act or, absent such IURC approval, the date this Amendment is deemed approved under Section 252(e)(4) of the Act ("Amendment Effective Date"), provided, however, that the rates contained herein shall be applied in accordance with Sections 2.1.3 and 2.3 of this Amendment. In the event that all or any portion of this Amendment as agreed-to and submitted is rejected and/or modified by the IURC, this Amendment shall be automatically suspended and, unless otherwise mutually agreed, the Parties shall expend diligent efforts to arrive at mutually acceptable new provisions to replace those rejected and/or modified by the IURC, provided, however, that failure to reach such mutually acceptable new provisions within thirty (30) days after such suspension shall permit either party to terminate this Amendment upon ten (10) days written notice to the other.

4. TERM OF AMENDMENT

4.1 EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT. This Amendment will become effective as of the Amendment Effective Date, and will terminate on the termination or expiration of the Agreement, provided, however, this Amendment, in whole or in part, may terminate or expire earlier pursuant to other provisions of this Amendment, including Section 6.

5. APPLICATION OF FEDERAL REQUIREMENTS AND OBLIGATIONS

5.1 The Parties acknowledge and agree that this Amendment is the result of the Order. The Parties further acknowledge and agree that because the Non-Voluntary Terms are being incorporated herein solely due to the Order and constitute pricing and tariffing results, the Non-Voluntary Terms and legitimately related terms do not qualify for portability under Paragraph 4.3 of the SBC/Ameritech Merger Conditions, approved by the FCC's Memorandum Opinion and Order, CC Docket 98-141 (rel. October 8, 1999), or any other applicable MFN Merger Conditions and are not available in any state other than the State of Indiana. The parties further acknowledge and agree that this Amendment was therefore

agreed upon outside of the negotiation procedures of 47 U.S.C. § 252(a)(1) (See SBC/Ameritech Order in CC Docket No. 98-141, FCC 99-279 at Condition 43, and Note 725). The parties further acknowledge that the entirety of this Amendment and its provisions are non-severable, and are "legitimately related" as that phrase is understood under Section 252(i) of Title 47, United States Code, notwithstanding the fact that Section 252(i) does not apply to this Amendment.

6. **RESERVATIONS OF RIGHTS**

- 6.1 Notwithstanding any other provision of the Agreement, the Non-Voluntary Terms are expressly conditional and are valid and binding only so long as no court or agency has ruled that the relevant provisions of the Order are unlawful, or has enjoined the effectiveness, application, or enforcement of those provisions. In any such event, the Non-Voluntary Terms automatically expire and are no longer available upon and to the extent of any such ruling or injunctive action. In the event of such an expiration, the rates so expired shall be automatically replaced by the corresponding tariff rates of SBC Indiana, provided, however, if there are no such tariff rates or such tariff rates are likewise affected by the ruling or injunctive action, then the rates in effect between the Parties immediately prior to this Amendment shall again apply. Such automatic replacement shall not require any further amendment to the Agreement, and shall be done without prejudice to any true-up under or retroactive application of such replacement rates.
- 6.2 In entering into this Amendment, the Parties acknowledge and agree that neither Party is waiving any of its rights, remedies or arguments with respect to any orders, decisions or proceedings and any remands thereof, including but not limited to its rights under the United States Supreme Court's opinion in *Verizon v. FCC, et al.*, 535 U.S. 467 (2002), the D.C. Circuit's decision in *United States Telecom Association, et al. v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) ("USTA decision"), the FCC's Triennial Review Order, adopted on February 20, 2003, on remand from the USTA decision and pursuant to the FCC's Notice of Proposed Rulemaking, *Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338 (FCC 01-361) (rel. Dec. 20, 2001), the FCC's Order *In the Matter of the Local Competition Provisions of the Telecommunications Act of 1996*, 15 FCC Red 1760 (FCC 99-370) (rel. Nov. 24, 1999), including its Supplemental Order Clarification (FCC 00-183) (rel. June 2, 2000), in CC Docket 96-98, or the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Red 9151 (2001), (rel. April 27, 2001) ("ISP Compensation Order"), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002). Rather, in entering into this Amendment, each Party fully reserves all of its rights, remedies and arguments with respect to any decisions, orders or proceedings, including but not limited to its right to dispute whether any UNEs and/or UNE combinations identified in the Agreement and this Amendment must be provided under Sections 251(c)(3) and 251(d) of the Act and under this Agreement. Notwithstanding anything to the contrary in this Agreement and in addition to fully reserving its other rights, SBC Indiana reserves its right, to the extent SBC Indiana has not already invoked the FCC ISP terminating compensation in Indiana and incorporated the rates, terms and conditions of such plan into this Agreement, to exercise its option at any time to adopt on a date specified by SBC Indiana the FCC ISP terminating compensation plan, after which date ISP-bound traffic will be subject to the FCC's prescribed terminating compensation rates, and other terms and conditions, and seek conforming modifications to this Agreement. In the event that a state or federal regulatory or legislative body or a court of competent jurisdiction, in any proceeding, finds, rules and/or otherwise orders that any of the UNEs and/or UNE combinations provided for under this Agreement and this Amendment do not meet the necessary and impair standards set forth in Section 251(d)(2) of the Act, the affected

provision will be immediately invalidated, modified or stayed as required to effectuate the subject order upon written request of either Party ("Written Notice") In such event, the Parties shall have sixty (60) days from the Written Notice to attempt to negotiate and arrive at an agreement on the appropriate conforming modifications required to the Agreement If the Parties are unable to agree upon the conforming modifications required within sixty (60) days from the Written Notice, any disputes between the Parties concerning the interpretations of the actions required or the provisions affected by such order shall be handled under the Dispute Resolution Procedures set forth in this Agreement

- 6 3 This Amendment does not in any way prohibit, limit, or otherwise affect either Party from taking any position with respect to the Order or any issue or subject addressed or implicated therein, or from raising and pursuing its rights and abilities with respect to the Order or any issue or subject addressed or implicated therein, or any legislative, regulatory, administrative or judicial action with respect to any of the foregoing
- 6 4 Notwithstanding this Amendment and without limiting Section 6 3, SBC Indiana (and its affiliates) is not waiving its rights, abilities, remedies or arguments with respect to the non-applicability of, and interaction between, the Telecommunications Act of 1996 (including Sections 251 and 252) to the Order (including the Indiana-specific requirements regarding wholesale subject matters addressed therein) SBC Indiana (and its affiliates) fully reserves its rights to raise and take any position with respect thereto, and to pursue such rights, abilities, remedies and arguments
- 6 5 Sections 6 1, 6 2, 6 3, and 6 4 are cumulative, and apply in accordance with their terms regardless of any change of law provision or any other provision in the Agreement or this Amendment

7. MISCELLANEOUS

- 7 1 The Agreement, as amended hereby, shall remain in full force and effect until terminated pursuant to its terms This Amendment does not extend the term of the Agreement On and from the Amendment Effective Date, reference to the Agreement in any notices, requests, orders, certificates and other documents shall be deemed to include this Amendment, whether or not reference is made to this Amendment, unless the context shall be otherwise specifically noted
- 7 2 This Amendment may be executed in counterparts, each of which shall be deemed an original but all of which when taken together shall constitute a single agreement
- 7 3 This Amendment constitutes the entire amendment of the Agreement and supersedes all previous proposals, both verbal and written
- 7 4 The Parties acknowledge that in no event shall any provision of this Amendment apply prior to the "Amendment Effective Date", provided, however, that the rates contained herein shall be applied in accordance with Sections 2 1 3 and 2 3 of this Amendment

IN WITNESS WHEREOF, each Party has caused this Amendment to be executed by its duly authorized representative

Z-Tel Communications, Inc.

**Indiana Bell Telephone Company
Incorporated d/b/a SBC Indiana
By its Authorized Agent,
SBC Telecommunications, Inc.**

By _____

By _____

Printed _____

Printed _____

Title _____

Title *For/* President - Industry Markets

Date _____

Date _____

AECN/OCN # _____

TAB F

TAB F

**AMENDMENT TO
INTERCONNECTION AGREEMENT
BETWEEN
ILLINOIS BELL TELEPHONE COMPANY d/b/a SBC ILLINOIS
AND
Z-TEL COMMUNICATIONS, INC.**

WHEREAS, Illinois Bell Telephone Company¹ d/b/a SBC Illinois ("SBC Illinois") and Z-Tel Communications, Inc ("CLEC") entered into an Interconnection Agreement which became effective on May 12, 2000 (the "Agreement"), and

WHEREAS, the Agreement permits the Parties to mutually agree to amend the Agreement in writing

NOW THEREFORE, the Parties agree to amend the Agreement as indicated herein

- 1 SBC Illinois has tariffed with the Illinois Commerce Commission unbundled loops, unbundled local circuit switching, and unbundled shared transport. Those tariffs are currently found at ILL C C No 20, Part 19, Sections 2, 3, and 21 (collectively, the "UNE-P Component Tariffs"). Each UNE-P Component Tariff contains recurring and nonrecurring rates and rate elements for its UNE product category (including ancillary, related offerings such as Daily Usage Feed, Conditioning) as well as the associated charges (such as service order charges). To the extent that the Agreement contains terms and conditions for a UNE offering also made in a UNE-P Component Tariff and the same pricing standard applies to the same UNE offering under both the Agreement and that UNE-P Component Tariff (each, a "Common UNE Offering"), the tariffed rates, rate elements, and associated charges existing on the Amendment Effective Date (as defined herein) in that UNE-P Component Tariff shall apply under this Agreement for that Common UNE Offering, on a prospective basis only starting on the Amendment Effective Date. From the Amendment Effective Date, the rates, rate elements, and associated charges previously applicable to each Common UNE Offering shall no longer be available and shall be deemed removed from the Agreement.
 - 1 1 If the Agreement has provisions pursuant to the pertinent FCC SBC/Ameritech merger order condition (CC Docket No. 98-141) for promotional discounts on stand-alone unbundled local loops used to provide residential services, those merger condition provisions and their application are not affected by this Amendment.
 - 1 2 A rate, rate element, or associated charge included within a UNE-P Component Tariff that references another SBC Illinois tariff for the actual price certain, shall fall within the scope and application of this Amendment. Otherwise, any other tariff (including any of its rates, rate elements, or associated charges) shall not apply to the Agreement or the CLEC as a result of or otherwise due to this Amendment.
 - 1 3 In determining whether unbundled shared transport can qualify as a Common UNE Offering, the Agreement must contain terms and conditions for the version of unbundled shared transport being offered by SBC Illinois on April 18, 2003 in its Illinois tariffs (the post-October 2000, AIN-based version).
- 2 Any changes to the tariffed rates, rate elements, and associated charges (including rate structure changes) for a Common UNE Offering shall also apply under this Agreement when and as effective under Illinois law, and on a prospective basis only (unless expressly ordered otherwise by the Commission or the FCC), automatically and without the need to formally amend the Agreement.
 - 2 1 Where such changes are accompanied by or are the result of applicable or legitimately related modifications of the Common UNE Offering's UNE-P Component Tariff, then the parties agree to amend

¹ Illinois Bell Telephone Company ("Illinois Bell"), an Illinois corporation, is a wholly owned subsidiary of Ameritech Corporation, which owns the former Bell operating companies in the States of Illinois, Indiana, Michigan, Ohio and Wisconsin. Illinois Bell offers telecommunications services and operates under the names "SBC Illinois" and "SBC Ameritech Illinois", pursuant to assumed name filings with the State of Illinois. Ameritech Corporation is a wholly owned subsidiary of SBC Communications, Inc.

the Agreement to incorporate such modifications into the Agreement within 60 days of the tariff effective date of such modification. If the Parties do not execute an amendment to the Agreement within that 60 days, either Party may pursue its rights under dispute resolution provisions applicable to the Agreement. During the period beginning with the tariff effective date of such modification and ending with the effective date of the amendment incorporating such modification, such tariff modification shall apply under the Agreement.

- 3 Paragraphs 1 and 2 shall not apply to a Common UNE Offering's pricing where the parties have otherwise agreed or agree, including where the parties have agreed on a multi-state rate for a UNE, and when a UNE rate is otherwise noted for different or inconsistent treatment. Notwithstanding the application of the preceding sentence, if a change to the tariffed rates, rate elements, and associated charges (including rate structure changes) for a Common UNE Offering are accompanied by or are the result of applicable or legitimately related modifications of the Common UNE Offering's UNE-P Component Tariff, the Parties shall discuss and negotiate in good faith over the need for an amendment due to such offering changes as reflected in the tariff modifications and, after 60 days from the tariff effective date of such modification, either may pursue any unresolved issues under the dispute resolution provisions applicable to the Agreement.
- 4 If any Common UNE Offering is removed from SBC Illinois tariffs, is not required to be provided on an unbundled basis, is not subject to the 47 U.S.C. §252(d)(1) pricing standard, or if the pricing standards applicable under the Agreement and the applicable UNE-P Component Tariff are no longer the same (each, a "Status Change"), the parties shall negotiate an amendment to this Agreement for the rates, rate elements, associated charges, and any associated provisions that shall apply beginning on the effective date of the earliest applicable Status Change to the extent that the affected Common UNE Offering remains available (whether on an unbundled basis or otherwise). The negotiations for any such amendment shall begin after notice by SBC Illinois to the CLEC of a planned or impending Status Change. The parties shall have 60 days from the receipt by CLEC of that notice to negotiate and arrive at an agreement on such amendment. If the parties are unable to agree to an amendment within that 60-day period, at any time thereafter either party may invoke the dispute resolution procedures applicable to the Agreement to resolve any remaining issues on the amendment. If that amendment is not effective by the effective date of the earliest applicable Status Change, the last tariffed rates, rate elements, and associated charges shall apply as interim rates for any provision of that network element, but for no more than 60 days after that effective date. Thereafter, the interim rate for that network element shall be reset in accordance with the first applicable from the following hierarchy, first to last: (i) a rate voluntarily agreed to between SBC Illinois and the CLEC after the applicable Status Change, (ii) a rate for that network element voluntarily agreed to between SBC Illinois and another carrier for Illinois made under the same pricing standard applicable after the Status Change, (iii) an interim rate set by the Commission (if subject to the Commission's jurisdiction) set under the same pricing standard applicable after the Status Change, (iv) an interim rate set by the Federal Communications Commission (if subject to its jurisdiction) set under the same pricing standard applicable after the Status Change, (v) SBC Illinois' interstate tariff rate for that network element or substantially similar service, or (vi) the previously applicable interim rate. For purposes of the foregoing interim rate reset, a rate that has been agreed upon by CLEC or another carrier with SBC Illinois shall not be ineligible based upon the fact that such rate is in an amendment that has not yet been approved by a State commission, if applicable. The parties shall subsequently true-up the period from the effective date of the earliest applicable Status Change to the effective date of the replacement rates, rate elements, and associated charges, which true-up shall include an interest charges calculated in accordance with the Agreement. The true-up requirement may be waived: (i) in whole, in the sole discretion of the Party that would be reasonably anticipated to be the net beneficiary of the true-up, and (ii) in part, for any rate, rate element, or associated charge, in the sole discretion of the Party that would be the beneficiary of a true-up of such rate, rate element, or associated charge.
- 5 Paragraphs 1 through 4 of this Amendment shall apply in accordance with their provisions, and do not affect the application in other circumstances of any other provisions that address change of law/intervening law or any similarly purposed provisions in the Agreement.
- 6 This Amendment, including any acts taken pursuant thereto, shall not in any way prohibit, limit, or otherwise affect, or act as a waiver by, either Party from pursuing of any of its rights, remedies or arguments with respect to any of the applicable tariffed rates, rate elements, or associated charges, including but not limited to any FCC

or Commission decisions, orders, or proceedings leading thereto and any remands thereof or any other related decisions or proceedings, including the right of each Party to seek legal review or a stay of any such tariffs, decisions, orders, or otherwise. Such rights, remedies, and arguments are expressly reserved by each Party.

7. Certain UNE rates, rate elements, and associated charges are subject to change in accordance with this Amendment with changes in SBC Illinois tariffs, without the need for an amendment to be filed and/or approved by the Commission. CLEC (including any telecommunications carrier seeking to adopt the Agreement and this Amendment, to the extent permitted, under 47 U.S.C. § 252(i)) is cautioned to review the Agreement, this Amendment, and SBC Illinois tariffs carefully to determine the currently applicable rates, rate elements, and associated charges that are applicable under, and subject to, this Amendment.
8. The application of this Amendment to any amendment to the Agreement that arises from a bona fide request (including a bona fide request for an ordinary combination, a k a BFR-OC), shall be addressed by the parties as part of that BFR-related amendment; this Amendment shall not apply automatically.
9. This Amendment is not, and shall not in any way be construed to be, an admission by SBC Illinois or any of its affiliates that any one of them has violated the Agreement or its tariffs, or has otherwise acted inappropriately. This Amendment shall not be construed in any proceeding as a present or past admission of liability.
10. **EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS IN THE UNDERLYING AGREEMENT REMAIN UNCHANGED**, including the rates, rate elements, and associated charges for UNEs under the Agreement that are not Common UNE Offerings. In addition, this Amendment shall not affect the application of recurring and nonrecurring rates, rate elements, and associated charges for pre-existing and new UNE combinations purchased through SBC Illinois' tariff. Defined terms not given a definition herein shall have the meaning ascribed to them in the Agreement.
11. In entering into this Amendment, the Parties acknowledge and agree that neither Party is waiving any of its rights, remedies or arguments with respect to any orders, decisions or proceedings and any remands thereof, including but not limited to its rights under the United States Supreme Court's opinion in *Verizon v. FCC*, et al, 535 U.S. 467 (2002), the D.C. Circuit's decision in *United States Telecom Association, et al v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) ("USTA decision"), the FCC's Triennial Review Order, adopted on February 20, 2003, on remand from the USTA decision and pursuant to the FCC's Notice of Proposed Rulemaking, *Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338 (FCC 01-361) (rel. Dec. 20, 2001), the FCC's Order *In the Matter of the Local Competition Provisions of the Telecommunications Act of 1996*, 15 FCC Rcd 1760 (FCC 99-370) (rel. Nov. 24, 1999), including its Supplemental Order Clarification (FCC 00-183) (rel. June 2, 2000), in CC Docket 96-98, or the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001) ("ISP Compensation Order"), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002). Rather, in entering into this Amendment, each Party fully reserves all of its rights, remedies and arguments with respect to any decisions, orders or proceedings, including but not limited to its right to dispute whether any UNEs and/or UNE combinations identified in the Agreement and this Amendment must be provided under Sections 251(c)(3) and 251(d) of the Act, and under this Agreement. Notwithstanding anything to the contrary in this Agreement and in addition to fully reserving its other rights, SBC Illinois reserves its right, to the extent SBC Illinois has not already invoked the FCC ISP terminating compensation in Illinois and incorporated the rates, terms and conditions of such plan into this Agreement, to exercise its option at any time to adopt on a date specified by SBC Illinois the FCC ISP terminating compensation plan, after which date ISP-bound traffic will be subject to the FCC's prescribed terminating compensation rates, and other terms and conditions, and seek conforming modifications to this Agreement. In the event that a state or federal regulatory or legislative body or a court of competent jurisdiction, in any proceeding, finds, rules and/or otherwise orders that any of the UNEs and/or UNE combinations provided for under this Agreement and this Amendment do not meet the necessary and impair standards set forth in Section 251(d)(2) of the Act, the affected provision will be immediately invalidated, modified or stayed as required to effectuate the subject order upon written request of either Party ("Written Notice"). In such event, the Parties shall have sixty (60) days from the Written Notice to attempt to negotiate and arrive at an agreement on the appropriate conforming modifications required to the Agreement. If the Parties are unable to agree upon the conforming modifications required within sixty (60) days from the Written

Notice, any disputes between the Parties concerning the interpretations of the actions required or the provisions affected by such order shall be handled under the Dispute Resolution Procedures set forth in this Agreement

- 12 This Amendment does not in any way prohibit, limit, or otherwise affect either Party from taking any position with respect to any issue or subject addressed or implicated in this Amendment, or from raising and pursuing its rights and abilities with respect to the same, or any legislative, regulatory, administrative or judicial action with respect to any of the foregoing. This Paragraph is not intended and shall not be interpreted so as to permit any Party to challenge, directly or indirectly, the Amendment, including without limitation its validity, effectiveness, or application
- 13 This Amendment shall be filed with the Illinois Commerce Commission ("ICC") for approval
- 14 Subject to Paragraph 15, this Amendment shall be effective on the 30th day after its approval by the ICC ("Amendment Effective Date")
- 15 Notwithstanding anything to the contrary, including anything in the Agreement or this Amendment (including Section 2), as between CLEC and SBC Illinois, in no event shall this Amendment result in the retroactive application of any rate, rate element, or associated charge to any date earlier than the 30th day after the Amendment is approved by the ICC or, if absent such ICC approval, the date such Amendment is deemed approved by operation of law, for use between CLEC and SBC Illinois. By way of example only and without limiting the foregoing, if CLEC adopted the Agreement and/or this Amendment ("Adopting CLEC") pursuant to 47 U.S.C. § 252(i), the tariffed rates, rate elements, and associated charges applicable under this Amendment would only apply between Adopting CLEC and SBC Illinois prospectively beginning from the 30th day following the ICC's order approving the Adopting CLEC's Section 252(i) adoption or, if absent such ICC approval, the date the Agreement and/or this Amendment is deemed approved by operation of law ("Section 252(i) Effective Date"), for use between Adopting CLEC and SBC Illinois. As between Adopting CLEC and SBC Illinois, the tariffed rates, rate elements, and associated charges would not in any manner apply retroactively prior to the Section 252(i) Effective Date, and the Section 252(i) Effective Date shall be the same date as the Amendment Effective Date
- 16 This Amendment shall not modify or extend the Effective Date or Term of the Agreement (even if now expired but the Parties continue to operate under the Agreement, including as modified by this Amendment, until replaced by a successor agreement), but rather will be coterminous with the Agreement
- 17 The Parties acknowledge and agree that the provisions set forth in Paragraphs 1-17 of this Amendment are each legitimately related to, conditioned on and consideration for, every other term and condition in Paragraphs 1-17 of this Amendment

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed on the date shown below by their respective duly authorized representatives

Z-Tel Communications, Inc

Illinois Bell Telephone Company d/b/a SBC Illinois
by SBC Telecommunications, Inc , its authorized
agent

By _____

By _____

Name _____
(Print or Type)

Name _____
(Print or Type)

Title _____
(Print or Type)

Title For/ President-Industry Markets

Date _____

Date _____

FACILITIES-BASED OCN # _____

ACNA: _____

TAB G
(Redacted)

TAB H
(Redacted)

TAB I
(Redacted)

TAB J
(Redacted)

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1 DISKETTE